

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

<b>MELISSA EDMONDS,</b>	)	CIVIL ACTION NO. <b>23-1243</b>
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
<b>ALLEGHENY COUNTY JAIL,</b>	)	
	)	
Defendant.	)	

**MEMORANDUM OPINION**

This case was referred to a United States magistrate judge for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Local Rules of Court 72.C and 72.D. On June 5, 2024, the magistrate judge issued a Report and Recommendation (“R&R”) (ECF No. 15), which recommended that the complaint be dismissed *sua sponte* pursuant to 28 U.S.C. § 1915(e)(2)(B) for failure to state a claim, without prejudice to plaintiff’s ability to seek leave to file an amended complaint.

Pro se plaintiff, Melissa Edmonds (“Edmonds”), was confined at the Allegheny County Jail (“ACJ”). The original complaint was received by the court approximately a year ago, on July 10, 2023. On May 22, 2024, the court granted Edmonds’ motion to proceed in forma pauperis (“IFP”). The same day, Edmonds filed an amended complaint (ECF No. 14).

On June 5, 2024, the magistrate judge issued the R&R under review. The R&R explained that Edmonds never fully complied with the deficiency order, but her release from custody mooted the need to correct those deficiencies. The R&R determined that Edmonds’ allegations that she

received inadequate treatment for food poisoning on May 10, 2023, failed to state a viable claim. The R&R recognized that Edmonds acknowledged in her complaint that she was taken to Pod 5B when she requested medical treatment and that the doctor gave her several medications and IV fluids (ECF No. 14). The magistrate judge explained that Edmonds' allegations failed to show deliberate indifference to her medical condition. To the contrary, Edmonds' complaint "explicitly concedes that she received timely medical attention." (ECF No. 15 at 6).

The magistrate judge directed that any objections be filed by June 24, 2024, and the R&R stated that failure to timely file objections would waive the right to appeal. The docket reflects that the R&R was mailed to Edmonds. No party filed objections by June 24, 2024. The R&R is ripe for review.

#### Standard of Review

Pursuant to 28 U.S.C. § 636(b) and Federal Rule of Civil Procedure 72, the district court "shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made" and "may also receive further evidence or recommit the matter to the magistrate judge with instructions." 28 U.S.C. § 636(b)(1)(C). Rule 72(b)(3) requires de novo review of any recommendation that is dispositive of a claim or defense of a party to which proper objections were made. *See Fraunhofer-Gesellschaft Zur Forderung Der Angewandten Forschung E.V. v. Sirius XM Radio Inc.*, No. 1:17CV184, 2021 WL 1147010, at \*1 (D. Del. Mar. 25, 2021).

Even if no objections are filed, the court should, as a matter of good practice, "satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." Fed. R. Civ. P. 72(b), advisory committee notes; *see also McClain v. Pennsylvania Department*

*of Corrections*, No. 1:19-CV-1951, 2020 WL 1690081, at \*1 (M.D. Pa. Apr. 7, 2020); *Univac Dental Co. v. Dentsply Intern., Inc.*, 702 F. Supp. 2d 465, 469 (M.D. Pa. 2010) (explaining that judges should review dispositive legal issues raised by the R&R for clear error).

#### Discussion

Following an independent review of the record, the court is satisfied that the R&R contains no clear error and will therefore accept the recommendation of the magistrate judge that the amended complaint be dismissed without prejudice to Edmonds' ability to seek leave to file an amended complaint. The court agrees with the magistrate judge that the allegations do not suffice to allege deliberate indifference to Edmonds' medical needs.

#### Conclusion

For the reasons set forth above, the amended complaint will be dismissed without prejudice. The court will adopt the R&R (ECF No. 15) as the opinion of the court, as supplemented herein.

An appropriate order follows.

Dated: July 10, 2024

BY THE COURT

/s/ Joy Flowers Conti  
JOY FLOWERS CONTI  
SENIOR UNITED STATES DISTRICT JUDGE